



**UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/691,318	10/18/00	GORDON	10951105-6

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AGILENT TECHNOLOGIES
LEGAL DEPARTMENT, 51UPD
INTELLECTUAL PROPERTY ADMINISTRATION
P. O. BOX 58043
SANTA CLARA CA 95052-8043

EXAMINER

LANEAU, R

ART UNIT PAPER NUMBER

2674

DATE MAILED: 10/02/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/691,318

Applicant(s)

GORDON, GARY B.

Examiner

Ronald Laneau

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 July 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 6) ☐ Other: _____

Response to Amendment

1. The amendment filed on 7/30/01 has been entered. New claims 20-22 are added and claims 17-22 are now pending.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 17-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Durbin et al (6,003,773).

As per claims 17 and 20, Durbin et al teach a hand-held optical reader that permits accurate scanning of images from optical indicia on a target surface oriented obliquely to the optical axis of the reader by substantially eliminating distortion normally inherent in such oblique scanning (see col. 2, lines 5-11). Further, Durbin et al teach an optical sensing area which represents the result of the use of a typical solid state video imaging array with a lens system that provides a magnification ratio of ten to one (see fig. 1), a handheld optical reader arranged so as to have its optical sensing area or field of view completely encompassing the machine-readable code (e.g. bar code) or human readable information (e.g. line or lines of text) on a label so that a complete instantaneous optical image thereof is projected onto an area array of photosensors within the reader and may be converted by the reader into digital image data and stored in a processor memory of the reader (see figure 2). With respect to the shape of the sensor

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array 16, photosensor arrays of the current state of the art are generally of rectangular shape or, at least, the active areas are of rectangular shape. While the preferred embodiment discloses a generally circular lens or optics 14, the shape thereof is preferred because of the generally rectangular shapes of so-called targets or photosensor arrays 16 of video cameras. It should be understood that the invention in its broad scope may not depend on a sensing area of any particular shape (see col. 15, lines 4-13). Durbin et al do not specifically disclose that the shape of the array would achieve compensation but this is an inherent feature for photosensor arrays having a lens system. The reasons why one skill in the art would have known that are because not only you would have an automatic control of the lens system but also a better image would be displayed when looking at a distance.

As per claims 18, 19, 21, and 22, Durbin et al teach photosensors that are disposed in columns and rows (see fig. 1). And having the columns spaced apart by an arcuate boundary with radii increasing with departure of curvature is also an inherent feature.

Response to Arguments

4. Applicant's arguments filed on 7/30/01 have been fully considered but they are not persuasive.

Applicant argues that there must be some suggestion or motivation, either in the cited references or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Contrary to applicant's arguments, it is not necessary that the references actually suggest, expressly or in so many words, the changes or improvements that applicant has made. The test for combining references is what the references

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as a whole would have suggested to one of ordinary skill in the art. In re Sheckler, 168 USPQ 716 (CCPA 1971); In re McLaughlin 170 USPQ 209 (CCPA 1971); In re Young 159 USPQ 725 (CCPA 1968).

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald Laneau whose telephone number is 703-305-3973. The examiner can normally be reached on Monday-Thursday from 8:00 AM to 6:00 PM or via email: ronal.laneau@uspto.gov.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Hjerpe can be reached at 703-305-4709.

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7. **Any response to this final action should be mailed to:**

Box AF

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9314 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,
Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding
should be directed to the Technology Center 2600 Customer Service Office whose telephone
number is (703) 306-0377.

Ronald Laneau
Examiner
Art Unit 2674



RICHARD HJERPE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

rl

September 26, 2001